

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 16135US02)

In the Application of:

Frederic Hayem

Electronically Filed on January 5, 2009

Serial No.: 10/733,861

Filed: December 11, 2003

For: MULTI-PROCESSOR
PLATFORM FOR WIRELESS
COMMUNICATION TERMINAL
HAVING A PARTITIONED
PROTOCOL STACK

Examiner: Fred A. Casca

Group Art Unit: 2617

Confirmation No.: 8099

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Appellant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on September 30, 2008 (hereinafter, the Final Office Action) with a period of reply through January 30, 2008, with one month extension petition. The Appellant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on December 15, 2008 (hereinafter, the Advisory Office Action). No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS/ARGUMENTS

The present application includes pending claims 1-7, 12-18, and 27-30, all of which have been rejected. Claims 1-2, 4-7, 12-14, and 16-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Neumann (US Pub. No. 2002/0141441A1),

in view of Kransmo (US Pat. No. 6,594,242 B1). Claims 27-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Neumann, in view of Perlman (US Pub. No. 2002/0114360A1). Claims 29-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Neumann, in view of Kransmo and Perlman. Claims 3 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Neumann, in view of Kransmo and further in view of Schmidt (US Pub. No. 2003/0067894 A1). The Appellant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

I. Examiner's Response to Arguments in the Final Office Action and the Advisory Office Action

In page 3 of the Advisory Office Action, the Examiner based his argument on Kransmo col. 1, lines 50-67 and col. 2, lines 1-67, and alleges that Kransmo discloses a handover process of the mobile station MS 12 (i.e., the alleged dual-mode wireless terminal) from a 3G communication system (i.e., network 14) to a 2G communication system (i.e., network 18), where the 3G network 14 utilizes 3G communication protocols and the 2G communication network 18 utilizes 2G communication protocols. Thus, the Examiner alleges that when the mobile station MS 12 (i.e., the alleged dual-mode wireless terminal) is switched (handed over) from a 3G network to a 2G network, the protocols in the mobile station MS 12 are also allegedly being switched from a 3G protocol to a 2G protocol in order to operate in the 2G network.

The Appellant respectfully disagrees and initially points out to the Examiner that Kransmo in the above cited portion, does not discuss any communication protocols, as asserted by the Examiner. Nevertheless, for the sake of argument, even assuming that Kransmo discloses that the 3G network 14 does operate with a 3G communication protocol, and the 2G network 18 does operate with a 2G protocol, Kransmo still does not disclose that **the mobile station MS 12 itself** (i.e., the alleged dual-mode wireless terminal) performs the function of "...switching between bearers utilizing said low-level stack operations and said set of protocol stack operations **and maintaining bearer connections during said switching**," as recited in claim 1 by the Appellant.

The Examiner, both in the Final Office Action and again in the Advisory Office Action, alleges without support, that Kransmo discloses that **the mobile station MS 12** (i.e., the alleged dual-mode wireless terminal) performs "protocol switching function", thus allegedly reading on the claimed **"...switching between bearers ... and maintaining bearer connections during said switching"**. The Appellant respectfully refers the Examiner to MPEP § 2142, regarding the support requirement for an obviousness rejection:

"... the analysis supporting a rejection under 35 U.S.C. 103 should be **made explicit**. The Federal Circuit has stated that **"rejections on obviousness cannot be sustained with mere conclusory statements"**; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See MPEP § 2142. The Appellant points out that the Examiner in both instances, has not provided any specific citation in Kransmo to support the rejection of the Appellant's claim 1.

In addition, the Appellant's arguments at pages 15-16 of the response to Final Office Action on 11/24/2008, illustrate the incorrectness of the Examiner's allegations. Namely, Kransmo **does not disclose or suggest** that there is any **protocol switching within the mobile station MS 12 device itself**, when switching from a 3G network to a 2G network. Instead, Kransmo discloses that the switching is **based on providing control channel information for the 2G communication system over a downlink control channel** of the 3G communication system **to the wireless terminal**. More specifically, Kransmo discloses that the 2G network control channel information is provided to the mobile station MS 12, which results in a reduction in channel frequency search time, i.e., a reduction in handover time (see Kransmo Fig. 3, and at col. 2, lines 18-31). For example, Kransmo discloses that the mobile station MS 12 utilizes the control channel information, such as the S-burst 58 (Synchronization Channel SCH) of a GSM 2G frame 50, to synchronize with the blank slot 60 of a WCDMA 3G frame 54 (see Fig. 2 and Kransmo at col. 4, lines 46-56).

To further substantiate the Appellant's argument, the Examiner is also referred to Kransmo in Fig. 3, where Kransmo discloses that slot 64 of a 3G network data frame 66 contains 2G network Control Channel information 62 for network synchronization. More specifically, Kransmo in Fig. 2 discloses that a mobile station MS 12 compresses transmission to leave blank slots idle, and align time T2 of a 3G WCDMA data frame 54 with time T1 of a 2G GSM frame 50. Fig. 3 illustrates that the 2G Control Channel CCH information 62, which is used to align or synchronize the 3G WCDMA frame data slot 64, enables the mobile station MS 12 to roam from a 3G to a 2G network efficiently (see Kransmo at col. 4, line 64 -col. 5, line 20). Therefore, Kransmo discloses that the mobile station MS 12 switches from a 3G network to a 2G network by synchronizing 2G control channel information to a 3G frame. Kransmo simply does not disclose or suggest any "protocol switching function" performed by the mobile station MS 12, in switching from a 3G to a 2G network, as alleged by the Examiner.

The Examiner, in the Advisory Office Action, further argues that 3G communication networks use soft handover, thus alleging that "during the soft handover (switching), the dual-mode device of Kransmo can have simultaneous connections to both 3G and 2G networks and with their respective protocols". The Appellant points out that soft handover in 3G network cells takes place **within** the 3G communication network. In this regard, the Examiner's soft handover argument is not applicable to Kransmo, since Kransmo discloses handover between **two different** communication networks (i.e., between a 3G network and a 2G network).

Therefore, based on the above rationale, the Appellant maintains that Kransmo does not overcome the deficiencies of Neumann and submits that the combination of Neumann and Kransmo does not disclose or suggest "enabling **switching between bearers** utilizing said low-level stack operations and said set of protocol stack operations **and maintaining bearer connections during said switching**," as recited in claim 1 by the Appellant, and a prima facie case of obviousness has not been established.

The Appellant submits that claim 1 is, therefore, allowable. Independent claims 13, 29 and 30 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Appellant submits that independent claims 13, 29 and 30 are also allowable at least for the reasons stated above with regard to claim 1.

In response to the rejection of claims 27-28, the Examiner simply rejected the Appellant's argument without any substantive response. The Appellant has specifically pointed out the inconsistencies in the Examiner's arguments. For example, the Examiner first equated the "TDMA network" as the first wireless network (see page 10 of the Final Office Action), in the rejection to claim 27. The Examiner then refers to the same first wireless network as the "GSM network". In this regard, the Appellant submits that the rejection to claims 27-28 is improper at least based on the Examiner's conflicting information. The Applicant maintains the arguments in the response to Final Office Action on 11/24/2008.

In response to the rejection of claims 29-30, the Examiner uses the same rationale as claims 27-28 to reject claims 29-30. The Appellant again refers the Examiner to the Appellant's argument above, and maintains that the argument in the response to Final Office Action on 11/24/2008 still stands.

In reference to the rejection of claims 3 and 15, the Appellant points out that the Examiner did not respond to the Appellant's argument. The Appellant maintains that the argument in the response to Final Office Action on 11/24/2008 still stands.

II. Independent Claims 1 and 13

The Appellant maintains the arguments in the reply to Final Office Action. The Examiner is further referred to the above arguments by the Applicant in the Pre-Appeal Brief, that the combination of Neumann and Kransmo does not disclose or suggest "enabling **switching between bearers** utilizing said low-level stack operations and said set of protocol stack operations **and maintaining bearer connections during said switching**," as recited in claim 1 by the Appellant.

II. Dependent Claims 2, 4-7, 12, 14 and 16-18

The Appellant maintains the arguments in the reply to Final Office Action. Claims 2, 4-7, 12, 14 and 16-18 depend directly or indirectly from independent claims 1 and 13 respectively, and are, consequently submitted to be allowable.

III. Claims 3, 15, 27-28 and 29-30

The Appellant maintains the corresponding arguments in the reply to the Final Office Action.

CONCLUSION

Based on at least the foregoing, the Appellant believes that all claims 1-7, 12-18, and 27-30 are in condition for allowance. If the Examiner disagrees, the Appellant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: January 5, 2009

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